

Andrew G. Deiss (7184)  
Corey D. Riley (16935)  
Tawni Bugden (7871)  
DEISS LAW PC  
10 West 100 South, Suite 700  
Salt Lake City, Utah 84101  
Tel: (801) 433-0226 Fax: (801) 386-9894  
adeiss@deisslaw.com  
criley@deisslaw.com  
tbugden@deisslaw.com  
Attorneys for the Plaintiffs

---

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

---

SMASH TECHNOLOGY, LLC, a Nevada  
limited liability company; and MICHAEL  
ALEXANDER, an individual;

Plaintiffs,

vs.

SMASH SOLUTIONS, LLC, a Delaware  
limited liability company; JERRY “J.J.”  
ULRICH, an individual; SMASH  
INNOVATIONS, LLC, a Wyoming limited  
liability company; FERACODE, LLC, a Utah  
limited liability company; Defendants.

**STIPULATED MOTION FOR ENTRY  
OF PROPOSED THIRD AMENDED  
SCHEDULING ORDER**

Case No. 2:19-cv-00105-TC-PMW

District Judge Tena Campbell  
Judge Jared C. Bennett

SMASH SOLUTIONS, LLC, a Delaware  
limited liability company; and JERRY “J.J.”  
ULRICH, an individual;

Counterclaim Plaintiffs,

vs.

SMASH TECHNOLOGY, LLC, a Nevada  
limited liability company; and MICHAEL  
ALEXANDER, an individual,

Counterclaim Defendants.

---

The parties: Plaintiffs, Smash Technology, LLC and Michael Alexander (Plaintiffs”); Defendants, Smash Solutions, LLC, Smash Innovations, and Jerry Ulrich; and Defendant Feracode, collectively (“Defendants”) by and through their respective counsel of record, pursuant to DUCivR 7-1-(a)(2)(A), DUCivR 7-1(b)(3)(B) and the Court’s Order, dated July 13, 2020 (ECF No. 92), hereby stipulate to extend discovery deadlines and move the Court to enter the proposed Third Amended Scheduling Order as set forth below.

1.	PRELIMINARY MATTERS	DATE
	<p>Nature of claims and any affirmative defenses:</p> <p><i>Plaintiffs’ claims against Defendants are as follows: (1) injunctive relief, (2) breach of contract, (3) breach of the covenant of good faith and fair dealing, (4) unjust enrichment, (5) intentional interference with economic relations, (6) false advertising and false designation of origin, (7) unfair competition, (8) deceptive trade practices, (9) declaratory judgment, (10) equitable accounting, (11) conversion, and (12) misappropriation of trade secrets.</i></p> <p><i>All of the Defendants have asserted applicable defenses and affirmative defenses, and certain of the Defendants have alleged counterclaims against the Plaintiffs, including claims for (1) declaratory judgment, (2) injunctive relief, (3) trademark infringement, (4) false designation of origin, (5) false advertising, (6) false association, (7) unfair competition, and (8) interference.</i></p>	
	<b>DISCOVERY LIMITATIONS</b>	<b>NUMBER</b>
	a. Maximum number of depositions by Plaintiff(s):	<u>15</u>
	b. Maximum number of depositions by Defendant(s):	<u>15</u>
2.	c. Maximum number of hours for each deposition (unless extended by agreement of parties):	<u>7</u>

	d. Maximum interrogatories by any party to any party:	<u>25</u>
	e. Maximum requests for admission by any party to any party:	<u>25</u>
	f. Maximum requests for production by any party to any party:	<u>25</u>
	g. The parties shall handle discovery of electronically stored information as follows: The parties do not anticipate any unusual circumstances regarding electronically stored information that would necessitate a special provision. All electronically stored information will be produced via file share service, DropBox, flash drive, or other similar facility. The Standard Protective Order adopted by DUCivR 26-2 will apply to the exchange of electronically stored information.	
	h. The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as follows: Include provisions of agreement to obtain the benefit of Fed. R. Evid. 502(d).	
	i. Last day to serve written discovery:	<u>09/30/20</u>
	j. Close of fact discovery:	<u>10/30/20</u>
	k. (optional) Final date for supplementation of disclosures and discovery under Rule 26(e):	<u>10/30/20</u>
<b>3.</b>	<b>RULE 26(a)(2) EXPERT DISCLOSURES &amp; REPORTS</b>	<b>DATE</b>
	<b>Disclosures (subject and identify of experts)</b>	
	a. Plaintiffs and Counterclaim Defendants:	<u>11/13/20</u>
	b. Defendants and Counterclaim Plaintiffs:	<u>12/31/20</u>
	<b>Reports</b>	
	a. Plaintiffs and Counterclaim Defendants:	<u>11/13/20</u>
	b. Defendants and Counterclaim Plaintiffs:	<u>12/31/20</u>
<b>4.</b>	<b>OTHER DEADLINES</b>	<b>DATE</b>

	a. Last day for expert discovery:	<u>02/5/21</u>	
	b. Deadline for filing dispositive or potentially dispositive motions:	<u>02/26/21</u>	
	c. Deadline for filing partial or complete motions to exclude expert testimony:	<u>03/04/21</u>	
<b>5.</b>	<b>SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION</b>	<b>DATE</b>	
	d. The parties will complete private mediation/arbitration by:	<u>03/04/21</u>	
<b>6.</b>	<b>TRIAL AND PREPARATION FOR TRIAL</b>	<b>TIME</b>	<b>DATE</b>
	a. Rule 26(a)(3) pretrial disclosures		
	Plaintiffs(s):		
	Defendant(s):		
	b. Objections to Rule 26(a)(3) disclosures (if different than 14 days provided in Rule)		
	c. Special Attorney Conference on or before:		
	d. Settlement Conference on or before:		
	e. Final Pretrial Conference		
	4-Day Jury Trial		

Respectfully submitted this 27<sup>th</sup> day of July, 2020.

DEISS LAW PC

s/Tawni Bugden

Andy Deiss

Corey Riley

Tawni Bugden

*Attorneys for Michael Alexander and Smash  
Technology LLC*

RICHARDS BRANDT MILLER NELSON

*/s/with permission of Kristina H. Ruedas*

MATTHEW C. BARNECK

ZACHARY E. PETERSON

KRISTINA H. RUEDAS

*Attorneys for Smash Innovations, Smash  
Solutions, and Jerry Ulrich*

GOEBEL ANDERSON PC

*/s/ with permission of Heidi Goebel*

ERIC K. JENKINS

HEIDI G. GOEBEL

*Attorneys for Defendant Feracode, LLC*

**CERTIFICATE OF SERVICE**

I HEAREBY CERTIFY that on the 27<sup>th</sup> day of July, 2020, I electronically filed the foregoing **STIPULATED MOTION FOR ENTRY OF PROPOSED THIRD AMENDED SCHEDULING ORDER** with the clerk of the Court using the CM/ECF system and thereby served by email all counsel of record.

DEISS LAW PC

*/s/Nevena Burza*